

Shahin
stay,

ORIGINAL FILED

NOV 14 1994

LOS ANGELES
SUPERIOR COURT

1 ROGER JON DIAMOND
2 2115 Main Street
3 Santa Monica, Ca 90405
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7 Attorney for Petitioner
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11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
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13 FOR THE COUNTY OF LOS ANGELES
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11 SAMIR SHAHIN, M.D.,)	CASE NO. BS 031335
12)	
13 Petitioner,)	ORDER GRANTING TEMPORARY STAY
14)	
15 vs.)	
16)	
17 MEDICAL BOARD OF CALIFORNIA,)	DATE: November 14, 1994
18)	TIME: 8:30 A.M.
19 Respondent)	PLACE: Department 85
20)	
21)	
22)	
23)	
24)	
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26)	
27)	
28)	

29 The application for temporary stay having come on regularly
30 for hearing before the Honorable Robert H. O'Brien in Department 85
31 on November 14, 1994, Roger Jon Diamond appearing for Petitioner
32 and Deputy Attorney General Elisa B. Wolfe appearing for
33 Respondent, and the Court, having read and considered the verified
34 Petition and Application, and having considered the arguments of
35 counsel, and GOOD CAUSE APPEARING,

36 IT IS HEREBY ORDERED that the decision of Respondent Medical
37 Board of October 11, 1994, (D-4231) is hereby stayed pending final
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11/10/94 1:33pm

Shahin ||
stay

1 judgment in this matter.
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ROBERT H. O'BRIEN

HON. ROBERT H. O'BRIEN

DUE TO A STAY ORDER PREVIOUSLY ISSUED IN THE SUPERIOR COURT, THIS DECISION DOES NOT TAKE EFFECT UNTIL JULY 28, 1995.

BEFORE THE MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	NO. D-4231
)	
SAMIR SHAHIN, M.D.)	OAH. L-59795
8540 S. Sepulveda Blvd., #1210)	
Los Angeles, Ca 90045)	
)	
Physician's and Surgeon's)	
Certificate No. G53276)	
Physician Assistant Supervisor)	
License No. SA 4669)	
)	
Respondent.)	
)	

PROPOSED DECISION

This matter came on regularly for hearing before Leslie H. Greenfield, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on August 9, 10, 11, 12, 16, and October 13, 1993.

Elisa B. Wolfe, Deputy Attorney General, represented the complainant Medical Board of California. Roger Jon Diamond, Attorney at Law, represented the respondent who was present throughout the hearing.

At the hearing complainant amended the Accusation as follows:

Page 3, line 3, change "5" to "6";
Page 4, line 22, change "G" to "I";
Page 4, delete "I." by deleting lines 22-27 and page 5, deleting lines 1-2;
Page 5, line 3, change "H." to "J.";
Page 5, lines 3, 7 & 9, change "Tony" to "Tonii";
Page 5, line 6, change "Davocett" to "Darvocet";
Page 5, line 6, change "C." to "K.";

The record was left open for the parties to submit written post hearing briefs. Complainant's Opening Brief: Re Closing Argument was received on December 9, 1993, and marked as Exhibit 27 for identification only. Respondent's Reply Brief was received on January 18, 1994, and marked as Exhibit L for identification only. Complainant's Reply Brief: Re Closing Argument was received on February 2, 1994, marked as Exhibit 28 for identification only, and the matter submitted.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge finds as follows:

1. Kenneth J. Wagstaff, made and filed the Accusation in his official capacity as Executive Officer of the Medical Quality Assurance of the State of California.

2. Respondent Samir Shahin, M.D. was issued Physician's and Surgeon's Certificate No G53276 on July 30, 1984. At all time herein relevant said license has been in full force and effect. Respondent is also licensed to supervise a Physician Assistant under License No SA 14669.

3. On or about November 1988, respondent entered into an agreement with Gerald Pearlman D.C. (Pearlman) to provide a 24 hour a day seven day a week walk in emergency medical clinic. Said clinic was located in and operated out of the same suite as the Pearlman chiropractic practice. Respondent controlled the hiring of licensed physicians to staff the medical service.

4. In or about mid-December, 1988, respondent hired Basem Koudsi (Koudsi) an unlicensed individual to provide medical services coverage at night and on the weekends in the emergency clinic. Koudsi had been licensed as a doctor in another country but held no license of any kind in the State of California, which fact was known to respondent.

5. On or about January 20, 1989, Koudsi treated patient Linda W. for a sore throat. Koudsi took her medical history, examined her, and provided her with a weeks supply of penicillin.

6. On or about January 10, 1989, Koudsi treated patient Florencia B. for a head wound, including stitches.

7. On or about March 4, 1989, Koudsi treated patient Tammalla G. for a foot injury including the taking of x-rays, foot wrapping and the prescription of Tylenol with codeine, a controlled substance.

8. On or about March 11, 1989, Koudsi treated patient Brenda C. for flu symptoms including prescribing penicillin V.K. and Robitusssin A.C.

9. On or about March 17, 1989, Koudsi treated patient Zylphia D. for a back injury. He gave the patient a back and neck brace and gave her Darvocet and Valium, both of which are controlled substance.

10. On or about March 30, 1989, Koudsi treated patient Francisco F. (a four year old boy) with a broken arm by setting and casting his arm.

11. On or about April 18, 1989, Koudsi examined patient Juli H. for muscle spasm and prescribed Darvocet and Flexoril, both controlled substances, for the patient.

12. On or about May 3, 1989, Koudsi treated patient Tonii for flu symptoms by checking her vital signs and examining her ears and throat. He also gave her Darvocett and Penicillin V. K. and on May 27, 1989, he again examined the patient and gave her more Penicillin V.K. On May 29, 1989, Koudsi again treated her with a shot of compazine and told her to stop all other medications.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

1. Grounds exist to discipline respondent's licenses pursuant to Business and Professions Code section 2234, in that he violated section 2264 of said Code, based on Findings 3-12.

2. No grounds exist to discipline respondent's licenses pursuant to Business and Professions Code section 2052, based on Findings 3-12.

3. Respondent objected to the admission of certain medical records and related document for the patients described in Findings 5-12. The issue having been argued in the Brief's of the parties, the Court finds that the evidence, Exhibits 3, 4, 5, 6, 8, 9, 10 and 13 are admissible. See Pating v Board of Medical Quality Assurance (1982) 130 Cal.App 3d 608.

4. The events established occurred more than 5 years ago. Due consideration has been given to this fact and to the Board's guidelines and regulations. It is unlikely that these acts will ever be committed by respondent again and no public purpose would be served by the revocation of respondent's Physician and Surgeon's Certificate and the prevention of his right to serve his patients for any period of time. However, respondent's ability to supervise Physician Assistants must be revoked in light of the specific Findings made herein.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. Physician's and Surgeon's Certificate No. G53276 issued to respondent Samir Shahin, M.D., by the Board is revoked, provided, however, that said revocation is stayed and respondent is placed on probation for five (5) years upon the following terms and conditions:

1. Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course of not less than 50 hours in medical office management and charting, which respondent, at his own expense, shall take and successfully complete during the first year of probation.

2. Within 60 days of the effective date of this decision, respondent shall submit to the Board for its prior approval a course in Ethics, which respondent shall successfully complete during the first year of probation.

3. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

4. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

5. Respondent shall comply with the Board's probation surveillance program.

6. Respondent shall appear in person for interviews with the Board's medical consultant upon request at various intervals and with reasonable notice.

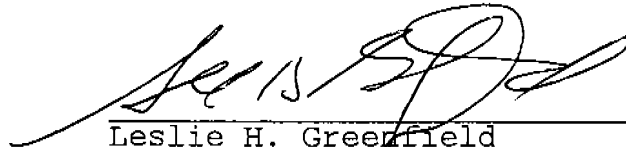
7. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, respondent is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.

8. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

9. Upon successful completion of probation, respondent's certificate will be fully restored.

B. Physician Assistant Supervisor License No. SA 146669 issued to respondent Samir Shahin, M.D., by the Board is revoked.

Dated: August 18, 1994

A handwritten signature in dark ink, appearing to read 'Leslie H. Greenfield', is written over a horizontal line.

Leslie H. Greenfield
Administrative Law Judge
Office of Administrative Hearings

LHG:me

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7

8 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

10 In the Matter of the Accusation) CASE NO. D-4231
11 Against:)
12 SAMIR SHAHIN, M.D.)
8540 S. Sepulveda Blvd. #1210)
13 Los Angeles, Ca. 90045)
14)
Physician's and Surgeon's)
15 Certificate No. G53276)
Physician Assistant Supervisor)
16 License No. SA 146669)
Respondent.)
17

18 Complainant alleges as follows:

19 1. Complainant Kenneth J. Wagstaff, is the Executive
20 Officer of the Board of Medical Quality Assurance of the State of
21 California, (hereinafter "the Board") and makes and files this
22 accusation solely in his official capacity.

23 2. On or about July 30, 1984, the Board issued
24 physicians and surgeon's certificate number G53276 to respondent
25 Shamir Shahin, M.D., (hereinafter "Respondent"). Said
26 certificate is paid and current and expires May 31, 1990.
27 Respondent is also licensed to supervise a Physician Assistant.

1 Said license is paid and current.

2 3. Section 2234 of the Business and Professions Code
3 provides that the Division of Medical Quality shall take action
4 against any licensee who is charged with unprofessional conduct.

5 Section 2264 of the Business and Professions Code
6 provides in pertinent part that, the aiding and abetting of any
7 unlicensed person in the practice of medicine or any other mode
8 of treating the sick or afflicted which requires a license to
9 practice constitutes unprofessional conduct.

10 4. Section 2052 of the Business and Professions Code
11 provides that any person who practices ... or holds himself out
12 as practicing, any system or mode of treating the sick or
13 afflicted in this state or who diagnoses, treats, operates for,
14 or prescribes for any ailment, blemish, deformity, disease,
15 disfigurement, disorder, injury or other physical or mental
16 condition of any person without having at the time of so doing a
17 valid certificate or without being authorized to perform such act
18 pursuant to a certificate obtained in accordance with some other
19 provision of law is guilty of a misdemeanor.

20 5. Respondent's certificate and Physician Assistant
21 Supervisor license is subject to disciplinary action pursuant to
22 sections 2234, 2264 and 2052 of the Business and Professions Code
23 in that, from approximately mid-December 1988 through
24 approximately May 1989, respondent aided and abetted Koudsi, an
25 unlicensed individual, in the unlicensed practice of medicine in
26 that he hired and permitted Koudsi to practice medicine in Los
27 Angeles. Respondent represented to patients and others that

1 Koudsi was licensed to practice when he knew or should have known
2 that Koudsi was not licensed to practice medicine.

3 5. Respondent's certificate and Physician Assistant
4 Supervisor license is subject to disciplinary action pursuant to
5 sections 2234 and 2264 of the Business and Professions Code in
6 that during the period from mid-December 1988 to May 1989,
7 respondent aided and abetted an unlicensed person, Basem Koudsi,
8 in the unlicensed practice of medicine and allowed Koudsi to
9 dispense controlled substances to patients. The circumstances
10 follow:

11 A. On or about November 1988, Dr. Shahin entered into
12 an agreement with Dr. Gerald Pearlman to provide a 24 hour a day,
13 seven day a week walk-in emergency care clinic. The clinic was
14 located and operated out ^{of} the same suite as Dr. Pearlman's, but
15 Dr. Shahin controlled the hiring of licensed physicians to staff
16 the 24 hour service.

17 On or about mid-December, Respondent hired Basem Koudsi
18 to provide coverage at night and on weekends. Basem Koudsi did
19 not then hold a physician and surgeon's license, nor has he been
20 issued any other license by the Board of Medical Quality
21 Assurance.

22 B. On or about January 20, 1989, while under
23 respondent's employ, Koudsi treated patient Linda W. for a sore
24 throat. Koudsi took her medical history, examined her, and
25 provided her with a weeks supply of penicillin V.K..

26 C. During January, 1989, Koudsi treated Mr. B [REDACTED]
27 daughter, Florencia, for a head wound. Koudsi's treatment

1 included stitches.

2 D. On or about March 4, 1989, Koudsi treated patient
3 Tammala G. for a foot injury. Koudsi examined Tammala G.'s foot
4 and took Xrays. Koudsi wrapped her foot and prescribed Tylenol
5 with codeine, a controlled substance.

6 E. On or about March 11, 1989, Koudsi treated Brenda
7 C. for flu symptoms. Koudsi examined Brenda C. and prescribed
8 penicillin V.K. and Robitussin A.C..

9 F. On or about March 17, 1989, Koudsi treated Zylphia
10 D. for a back injury. Koudsi gave her a back and neck brace. He
11 also gave her Darvocet and Valium, both of which are controlled
12 substances.

13 On or about May 3, 1989, patient Zylphia D. was treated
14 by Koudsi. He examined her and asked her questions about her
15 progress.

16 G. On or about March 30, 1989, Koudsi treated a four
17 year old boy who was brought in for treatment of a broken arm.
18 Koudsi set and cast his arm.

19 H. On or about April 18, 1989, Koudsi treated patient
20 Juli H. for a muscle spasm. Koudsi examined her, and gave her
21 Darvocet and Flexoril, both controlled substances.

22 G. On or about May 12, 1989, Koudsi treated Ricardo S.
23 for injuries sustained after slipping on oil. Koudsi examined
24 him and took Xrays. Koudsi gave Ricardo a sling for his arm and
25 some Motrin. Koudsi also excused him from work for a week.

26 On or about August 6, 1989, Ricardo S. was treated for
27 an eye injury at Dr. Shahin's new office on Manchester and

1 Sepulvida. Koudsi was present during the examination. According
2 to Dr. Shahin, Koudsi was in "training".

3 H. On or about May 3, 1989, Koudsi treated Tony H. for
4 flu symptoms. Koudsi checked her vital signs and examined her
5 ears and throat. He also ordered a throat culture and gave her
6 Davocett and penicillin V.C..

7 On or about May 27, 1989, Koudsi treated patient, Tony
8 H.. Koudsi examined her and gave her penicillin V. K..

9 On or about May 29, after Tony H.'s symptoms grew
10 worse, she was treated by Koudsi. Koudsi gave her a shot of
11 compazine and told her to stop all medications.

12 WHEREFORE, complainant prays that the Board hold a
13 hearing on the matters alleged herein and following said hearing
14 issue a decision:

15 1. Taking such action as provided in sections 2227
16 and 2228;

17 2. Taking such other action as it deems proper.

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19 DATED: May 9, 1990.

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KENNETH J. WAGSTAFF
Executive Director
Medical Board of California
State of California

Complainant